

# Notice of Allowability

Application No.

10/608,261

Examiner

Creighton H. Smith

Applicant(s)

PARKER, BENJAMIN J.

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to application filed on 27 JUN '03.
2. ☒ The allowed claim(s) is/are 1-11 and 16-25.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 27.06.03
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Creighton H Smith  
Primary Examiner  
Art Unit: 2614

**DETAILED ACTION**

This application contains claims directed to the following patentably distinct species: Group I consisting of claims 1-11 which contain only 1 short range, mobile transmitter; group II consisting of claims 12-15 which contain a 1<sup>st</sup> & 2<sup>nd</sup> short range, mobile transmitter, which the claims of Group I do not contain the added recitation of a 2<sup>nd</sup> transmitter; Group III consisting of claims 16-25 which contain the gateway, IP server, and one short range, mobile transmitter; Group IV which contain claims 26-28, which contains neither a 1<sup>st</sup> nor a 2<sup>nd</sup> transmitter, but rather go to a method of operating a server. The species are independent or distinct because each one of the independent claims contain different combinations of elements not found in the other groups of claims. Requiring the examiner to search for each different combination of claims would present a serious burden

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Art Unit: 2614

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

During a telephone conversation with Mark Mollon on 06 NOV '07 a provisional election was made without traverse to prosecute the invention of Group III, claims 16-25. Affirmation of this election must be made by applicant in replying to this Office action. Claims 12-15 and 26-28 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant also requested examiner to consider including the claims of Group I, claims 1-11, with the claims of Group III, claims 16-25. Upon further consideration it does appear that claim 1 is a subcombination of claim 16 because the short range, mobile transmitter, near-station profile, and away-station profile are claimed in both of claims 1 and 16, with additional limitations also claimed in claim 16. Therefore, the claims of Groups III and I will be examiner together.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mark Mollon on 07 NOV '07.

Art Unit: 2614

The application has been amended as follows:

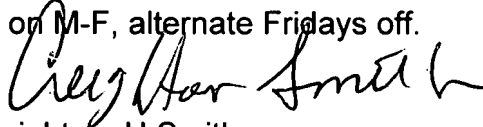
- - Cancel claims 12-15 & 26-28. - -

The following is an examiner's statement of reasons for allowance: The prior art fails to teach applicant's method of detecting by a user's computing device or landline telephone when a short range, mobile transmitter is within a predetermined distance of the user's device or landline telephone. When the short-range transmitter is within that predetermined distance of the user's computing device/landline telephone, the phone calls are sent over the Internet Protocol (VoIP) network to the user's landline telephone. No obvious combination of references found would have taught one of ordinary skill in the art to make and use applicant's method as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Creighton H. Smith whose telephone number is 571/272-7546. The examiner can normally be reached on M-F, alternate Fridays off.

07 NOV '07

  
Creighton H Smith  
Primary Examiner  
Art Unit 2614

\*\*\*